

2007 TTB

Tobacco Industry Seminar

**Federal Compliance Training for
the Tobacco Industry**

July 17, 2007



Alcohol and Tobacco Tax and Trade Bureau

Changes to Report to TTB: Manufacturers



Tobacco Applications Branch
National Revenue Center

IMPORTANT



When there is a change to the information TTB has on file for any of your TTB permits, you must notify TTB.

Notification of a Change May Occur by:

- ❑ Letter notice;
- ❑ E-mail, phone call, fax, etc.; and/or
- ❑ TTB F 5200.16, Application for Amended Permit as a Manufacturer of Tobacco Products or an Export Warehouse Proprietor



1st Stop for Changes:



**Internal Revenue Code (IRC)
26 U.S.C. Chapter 52**

AND

27 Code of Federal Regulations (CFR)

Manufacturers of Tobacco Products— Part 40, Subpart F

Changes After Original Qualification:

- ▣ Changes In Name
- ▣ Changes In Ownership And Control
- ▣ Change In Location

AND



**The instructions are
attached to or on TTB
forms.**



27 CFR 40.91 – 40.93, Changes In Name

□ Include:

- 40.91, Change in individual name.
- 40.92, Change in trade name.
- 40.93, Change in corporate name.

Note: A change in name often occurs as the result of a transfer in ownership.

27 CFR 40.91, Change in Individual Name

- **Within 30 days of the change:**
 - Make application on TTB Form 5200.16;
 - Furnish documents necessary to establish the name has been changed; **AND**
 - Surrender current approved permit for amendment.

27 CFR 40.92, Change in Trade Name— discontinuing, adding, or changing a trade name

- ❑ Within **30 days** of the change, discontinuance, or addition of a trade name:
 - Make application on Form 5200.16 for an amended permit;
 - Furnish a true copy of any new trade name certificate or document issued by a State, county or municipal authority; **OR**
 - If no such document is required, a written statement to that effect; **AND**
 - Surrender current approved permit for amendment.

27 CFR 40.93, Change in Corporate Name

- Within **30 days** of the change:
 - Make application for an amended permit on TTB Form 5200.16;
 - Furnish documents necessary to establish the name has been changed; **AND**
 - Surrender current approved permit for amendment.

TTB F 5200.16, Application for Amended Permit as a Manufacturer of Tobacco Products

OMB No. 1513-0078 (12/31/2008)

DEPARTMENT OF THE TREASURY
ALCOHOL AND TOBACCO TAX AND TRADE BUREAU (TTB)
APPLICATION FOR AMENDED PERMIT AS A MANUFACTURER OF
TOBACCO PRODUCTS OR AN EXPORT WAREHOUSE PROPRIETOR

FOR TTB USE ONLY

Number

Date

1. My TTB permit _____ (enter permit number) to conduct business as a:

☐

Manufacturer of Tobacco Products

OR

☐

Proprietor of an Export Warehouse

2. My employer identification number is: (Read instruction H)

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3. ☐ I have attached my permit to this TTB form for amendment (Read instruction I).

OR

☐

I have NOT attached my permit to this application because: _____

4. My new legal name is (Read instruction J): _____ AND

☐

I have attached the document(s) to show this change.

OR

☐

I have NOT attached the document(s) to show this change because: _____

5. ☐ I am changing, discontinuing, or adding the trade name(s) (Read instruction K) as follows:

27 CFR 40.91, Change in Individual or Corporate Names

OMB No. 1513-0078 (12/31/2008)	
DEPARTMENT OF THE TREASURY	
ALCOHOL AND TOBACCO TAX AND TRADE BUREAU (TTB)	
APPLICATION FOR AMENDED PERMIT AS A MANUFACTURER OF TOBACCO PRODUCTS OR AN EXPORT WAREHOUSE PROPRIETOR	
FOR TTB USE ONLY	
Number	
Date	

4. My new legal name is (*Read instruction J*): _____ AND

☐ I have attached the document(s) to show this change.

OR

☐ I have NOT attached the document(s) to show this change because: _____

6. ☐ I have attached my trade name(s) certificate(s) (*Read instruction L*).

OR

☐ I have NOT attached these certificates for the following reason: _____

7. ☐ I am reporting that the address of my factory to manufacture tobacco or my export warehouse has changed, but not its location, to: _____

8. I intend to relocate, extend, or curtail my factory to manufacture tobacco products, or my export warehouse (*Read instruction M*).

☐ I have attached a description and, if necessary, a diagram of my factory or export warehouse.

OR

☐ I have NOT attached a description for the following reason: _____

9. ☐ I am reporting a change in the officers or directors of a corporation, association, or similar business.

☐ I am reporting a change in the stockholder(s) holding more than 10 percent of a corporation, limited liability company, association, or similar business.

☐ I am reporting a change in the manager of a limited liability company as follows:

a. REMOVE the following persons (*Read instruction N*) from my business:

a. Full legal name	b. Title(s) or position in business	c. Social security or employer identification number
a. Full legal name	b. Title(s) or position in business	c. Social security or employer identification number
a. Full legal name	b. Title(s) or position in business	c. Social security or employer identification number
a. Full legal name	b. Title(s) or position in business	c. Social security or employer identification number

27 CFR 40.92, Change in Trade Name

DEPARTMENT OF THE TREASURY ALCOHOL AND TOBACCO TAX AND TRADE BUREAU (TTB) APPLICATION FOR AMENDED PERMIT AS A MANUFACTURER OF TOBACCO PRODUCTS OR AN EXPORT WAREHOUSE PROPRIETOR		OMB No. 1513-0078 (12/31/2008) FOR TTB USE ONLY Number _____ Date _____
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5. ☐ I am changing, discontinuing, or adding the trade name(s) (*Read instruction K*) as follows:

Remove trade name(s) from my permit: _____

Add trade name(s) to my permit: _____

6. ☐ I have attached my trade name(s) certificate(s) (*Read instruction L*).

OR

☐ I have NOT attached these certificates for the following reason: _____

9. ☐ I am reporting a change in the officers or directors of a corporation, association, or similar business.
☐ I am reporting a change in the stockholder(s) holding more than 10 percent of a corporation, limited liability company, association, or similar business.
☐ I am reporting a change in the manager of a limited liability company as follows:

a. REMOVE the following persons (*Read instruction N*) from my business:

a. Full legal name	b. Title(s) or position in business	c. Social security or employer identification number

Changes For Tobacco Products Manufacturers After Original Qualification



*Changes in Ownership
and Control*

27 CFR 40.101 - 40.104

Changes in Ownership and Control may Include:

- ❑ 40.101, Fiduciary successor.
 - **Continuing operations
 - **Liquidating business
- ❑ 40.102, Transfer of ownership.
- ❑ 40.103, Change in officers, directors, or stockholders of a corporation.
- ❑ 40.104, Change in control of a corporation.

27 CFR 40.101, Fiduciary Successor— Continuing Operations:

- Such fiduciary shall, before commencing operations:
 - Make application for permit and file a bond as required by 27 CFR Subpart E (Qualification Requirements);
 - Furnish certified copies of the order of the court showing appointment and qualification as fiduciary;
 - Make a commencing inventory on TTB F 5210.9; **AND**
 - Request to adopt the diagram of the predecessor if it is currently complete and accurate.

27 CFR 40.101, Fiduciary to Liquidate Business

- **TTB would expect:**
 - A written statement that explains the intention to liquidate; **AND**
 - TTB F 5000.18, Change of Bond (Consent of Surety) of the predecessor's bond, executed by the fiduciary and the surety on the bond.

DEPARTMENT OF THE TREASURY
ALCOHOL AND TOBACCO TAX AND TRADE BUREAU (TTB)
CHANGE IN BOND (*CONSENT OF SURETY*)

1. What is the legal name of your business (<i>read instruction G</i>)?	2. What is your Employer Identification Number (<i>read instruction H</i>)? <div style="display: flex; align-items: center; justify-content: center; margin-top: 10px;"> <div style="border: 1px solid black; width: 30px; height: 30px; margin: 2px;"></div> <div style="border: 1px solid black; width: 30px; height: 30px; margin: 2px;"></div> <div style="margin: 0 10px;">—</div> <div style="border: 1px solid black; width: 30px; height: 30px; margin: 2px;"></div> <div style="border: 1px solid black; width: 30px; height: 30px; margin: 2px;"></div> <div style="border: 1px solid black; width: 30px; height: 30px; margin: 2px;"></div> <div style="border: 1px solid black; width: 30px; height: 30px; margin: 2px;"></div> <div style="border: 1px solid black; width: 30px; height: 30px; margin: 2px;"></div> <div style="border: 1px solid black; width: 30px; height: 30px; margin: 2px;"></div> <div style="border: 1px solid black; width: 30px; height: 30px; margin: 2px;"></div> </div>
3. What is your permit number or registry number listed on the bond that you are changing (<i>read instruction I</i>)?	4. What is the corporate surety, if any, listed on the bond that you are changing (<i>read instruction J</i>)?
5. What is the form number of the bond that you are changing?	6. What is the dollar amount of the bond that you are changing?
7. What is the effective date of the bond that you are changing?	8. What is the effective date of this change in bond? (<i>If no effective date is stated, the effective date is the date of its execution shown in item 10a.</i>)
9. We are changing the above bond as follows:	

27 CFR 40.102, Transfer of Ownership

- The proposed successor shall, before commencing operations:
 - Qualify as a manufacturer of tobacco products in ample time for examination and approval before the desired date of such change;
 - Request to adopt the diagram of the predecessor proprietor if it is currently complete and accurate;
 - Make a commencing inventory on TTB F 5210.9; **AND**
 - Make a commencing report on TTB F 5210.5.

27 CFR 40.102, Transfer of Ownership

- ❑ Includes a change of any member of a partnership or association.
- ❑ From the outgoing proprietor, TTB would expect to receive:
 - Notice in writing naming the proposed successor and the desired effective date of the transfer of ownership;
 - Make a concluding inventory on F 5210.9;
 - Make a concluding report on F 5210.5;
 - File a final excise tax return on F 5000.24; **AND**
 - Surrender the permit with the concluding inventory and concluding report.

Changes in Officers, Directors, or Stockholders of a Corporation

27 CFR 40.103



27 CFR 40.103, Changes in Officers, Directors, or Stockholders of a Corporation

- The manufacturer shall **within 30 days** of such action:
 - Notify TTB in writing identifying such person(s);
 - Written notification of change in officers authorized to act on behalf of the corporation;
 - File TTB F 5000.9 Personnel Questionnaire; **AND**
 - Update signing authority—TTB F 5000.8, or TTB F 5100.1, BOD resolutions, etc.

27 CFR 40.103, Change in Officers, Directors, or Stockholders

OMB No. 1513-0078 (12/31/2008) DEPARTMENT OF THE TREASURY ALCOHOL AND TOBACCO TAX AND TRADE BUREAU (TTB) APPLICATION FOR AMENDED PERMIT AS A MANUFACTURER OF TOBACCO PRODUCTS OR AN EXPORT WAREHOUSE PROPRIETOR		FOR TTB USE ONLY Number _____ Date _____
1. My TTB permit _____ (enter permit number) to conduct business as a:		

9. ☐ I am reporting a change in the officers or directors of a corporation, association, or similar business.
- ☐ I am reporting a change in the stockholder(s) holding more than 10 percent of a corporation, limited liability company, association, or similar business.
- ☐ I am reporting a change in the manager of a limited liability company as follows:

a. REMOVE the following persons (*Read instruction N*) from my business:

a. Full legal name	b. Title(s) or position in business	c. Social security or employer identification number
a. Full legal name	b. Title(s) or position in business	c. Social security or employer identification number
a. Full legal name	b. Title(s) or position in business	c. Social security or employer identification number
a. Full legal name	b. Title(s) or position in business	c. Social security or employer identification number

27 CFR 40.104, Changes in Control

- Within **30 days** after the change occurs:
 - Make application for a new permit on F 5200.3;
 - Surrender your current permit with a concluding report on F 5210.5 and concluding inventory on F 5210.9;
 - File F 5000.9 Personnel Questionnaire, if appropriate;
 - Update signing authority—business documents, F 5000.8, or F 5100.1; *and*
 - Furnish business documents supporting the changes.

If the application for a new permit is NOT timely filed:

- ❑ The present permit will be automatically terminated at the expiration of such 30-day period;
- ❑ The manufacturer shall dispose of all tobacco products on hand;
- ❑ Make a concluding inventory F 5210.9
- ❑ Make a concluding report F 5210.5; *and*
- ❑ Surrender the permit with the inventory and report.

If the application for a new permit IS timely filed:

- ▣ The present permit shall continue in effect pending final action with respect to such application.

Change of Control

- ▣ **Two different kinds:**

- 1) CHANGE OF LEGAL CONTROL, and

- 2) CHANGE OF ACTUAL CONTROL

Change of Legal Control

- **LEGAL CONTROL** is determined by the possession of a majority of stock:
 - In a permittee corporation,
 - OR***
 - In a corporation which controls a permittee corporation.

Change of Actual Control

- ❑ Determined by who now actually controls the corporation or other business entity (LLC)
- ❑ Can be changes in minority stockholders who band together
- ❑ Actual control can also rest with officers and directors

Limited Liability Companies

- ▣ Changes of Actual Control can also occur when there are changes to the membership of Limited Liability Companies (LLC)

Change in Control vs. Change in Ownership

□ Both require:

- TTB F 5200.3, Application For Permit Under 26 U.S.C. Chapter 52, Manufacturer of Tobacco Products
- A new original permit is issued to both.

Changes for Tobacco Product Manufacturers after Original Qualification



*Change In Location
of Factory*

27 CFR 40.111 - 40.114

27 CFR 40.111 and 40.113, Change in Location within Region and to Another Region

- **Before commencing operations at the new location:**
 - Make application on TTB F 5200.16 and obtain an amended permit;
 - File TTB F 5000.29, Environmental Information;
 - File TTB F 5000.30, Supplemental Information on Water Quality Considerations;
 - Provide a description and diagram if required by 27 CFR 40.69, Factory premises; **AND**
 - If appropriate, file a superseding bond or change in bond (consent of surety).

27 CFR 40.111 – 40.114, Changes in Location of Factory

DEPARTMENT OF THE TREASURY ALCOHOL AND TOBACCO TAX AND TRADE BUREAU (TTB) APPLICATION FOR AMENDED PERMIT AS A MANUFACTURER OF TOBACCO PRODUCTS OR AN EXPORT WAREHOUSE PROPRIETOR		OMB No. 1513-0078 (12/31/2008) FOR TTB USE ONLY Number _____ Date _____
1. My TTB permit _____ (enter permit number) to conduct business as a: <input type="checkbox"/> Manufacturer of Tobacco Products OR <input type="checkbox"/> Proprietor of an Export Warehouse		
2. My employer identification number is: (Read instruction H) - 		
3. <input type="checkbox"/> I have attached my permit to this TTB form for amendment (Read instruction I). OR <input type="checkbox"/> I have NOT attached my permit to this application because: _____		
4. My new legal name is (Read instruction J): _____ AND <input type="checkbox"/> I have attached the document(s) to show this change. OR <input type="checkbox"/> I have NOT attached the document(s) to show this change because: _____		
5. <input type="checkbox"/> I am changing, discontinuing, or adding the trade name(s) (Read instruction K) as follows: Remove trade name(s) from my permit: _____ Add trade name(s) to my permit: _____		

8. I intend to relocate, extend, or curtail my factory to manufacture tobacco products, or my export warehouse (Read instruction M).

☐ I have attached a description and, if necessary, a diagram of my factory or export warehouse.

OR

☐ I have NOT attached a description for the following reason: _____

9. <input type="checkbox"/> I am reporting a change in the officers or directors of a corporation, association, or similar business. <input type="checkbox"/> I am reporting a change in the stockholder(s) holding more than 10 percent of a corporation, limited liability company, association, or similar business. <input type="checkbox"/> I am reporting a change in the manager of a limited liability company as follows:		
a. REMOVE the following persons (Read instruction N) from my business:		
a. Full legal name	b. Title(s) or position in business	c. Social security or employer identification number
a. Full legal name	b. Title(s) or position in business	c. Social security or employer identification number
a. Full legal name	b. Title(s) or position in business	c. Social security or employer identification number
a. Full legal name	b. Title(s) or position in business	c. Social security or employer identification number

27 CFR 40.112, Change of Address but Not Location

- ▣ Within **30 days** of this change you must:
 - Make application for an amended permit on 5200.16—Item 7.
 - Wait for TTB approval—no.

27 CFR 40.114, Extension or Curtailment of Factory

- The manufacturer shall:
 - Make application on TTB F 5200.16 and obtain an amended permit;
 - Describe the proposed change in the factory;
AND
 - Provide a diagram if required by 27 CFR 40.69, Factory premises.

27 CFR 40.69, Factory Premises

- ▣ The factory premises to be used by the manufacturer as his factory may consist of:
 - More than one building; **OR**
 - Portions of buildings—contiguous or not, but must be in the same city, town, or village;
 - Shall be described in the application and bond by number, street, city, town, or village, and State.
 - Do I need a diagram?

If any of the following conditions exist, a diagram shall be furnished showing:

- ❑ If each building cannot be identified by a separate street address, identify each building by a letter, number or similar designation;
- ❑ Where the factory consists of a portion of a building—show the particular floors or rooms comprising the factory;
- ❑ Where there is an adjoining retail store operated by the manufacturer of tobacco products show any doors or other openings between the factory and the retail store.

Other Changes to Report to TTB

- ▣ A change to a current approved alternate method or procedure
- ▣ Bond coverage
- ▣ Revocation of current approved powers of attorney
- ▣ Discontinuance of operations (27 CFR 40.331)

If You Need Help Call Us at the National Revenue Center



Contact the NRC
Tobacco Applications Branch

- ▣ 8002 FOB
- ▣ 550 Main Street
- ▣ Cincinnati, OH 45202
- ▣ 1-877-882-3277 or
513-684-7150